



ashm
Australasian Society for HIV Medicine

Submission to Senate Inquiry on Health Insurance Amendment (Compliance) Bill 2009 No. , 2009

I am writing as the President of the Australasian Society for HIV Medicine (ASHM) that is the peak body for health care professionals working in the field of HIV in Australia. ASHM has a membership of over 1000 members who work in HIV, sexual health and hepatitis across a board range of settings including general practice, sexual health centres and specialist care.

Doctors and nurses caring for people living with HIV have always understood the fundamental importance of confidentiality and honesty between a patient and their health care professionals. The consultations that we have with patients often contain information that is extremely intimate and personal concerning sexual behaviour, emotional feelings and sexuality. Frequently we are the only person to whom the patient has disclosed that sensitive information. People often say they are ashamed, feel guilty, feel scared or worry that others will discriminate against them if that information is known. Confidentiality allows an honest provision of information by the patient to improve the ability of the doctor or nurse to provide professional advice that can inform patient decision making.

ASHM agrees very strongly with the proposition that payments made by Medicare Australia for medical services must be fully accountable to prevent fraud and misuse. We are also aware that there are very specific serious matters that permit the disclosure of that information such as serious criminal matters at the order of a court or in for serious public health reasons. However, the recent release of the proposed amendments contained in the Health Insurance Amendment (Compliance) Bill 2009 has greatly troubled our members and we are concerned about the potential harm.

The harms that could arise from the amendments, as we read them, are as follows:

ABN 48 264 545 457
Level 7, 46-56 Kippax Street, Surry Hills NSW 2010
Locked Mail Bag 5057 Darlinghurst NSW 1300
Telephone +61 2 8204 0700
Fax +61 2 9212 2382
Email ashm@ashm.org.au
Web www.ashm.org.au

1. Patients may not disclose sensitive or confidential information about their sexual life if that information can be released to a third party without their permission. Many patients insist on checking first that their information will remain confidential. In the new legislation, the CEO of Medicare is permitted to request a full copy of a medical consultation. He or she is then permitted to review the information contained in it to make a decision on whether a doctor has made a false claim for Medicare benefits. Does this mean that we must warn patients that anything they say may be read by a non-medical third party in the future to check that a doctor has claimed the appropriate Medicare benefit?
2. There is nothing in the amendments that speaks to the protection of that data within Medicare Australia. Recent cases of data leakage in the Australia and the UK have shown how easily “confidential” data gets accidentally lost or read by unauthorised eyes. How would members of the Senate feel if their personal sexual histories were available to all and sundry purely because of an unrelated administrative audit process?
3. There is also nothing in the bill that speaks to the clinical or prejudices of those reading the data: how can we protect against someone applying their own moral or religious code to the information contained in a consultation note and reacting to it. We should not forget that sexual behaviour such as homosexuality may be still considered as abhorrent by some Australians. Who would be responsible if a prominent sports personality or politician was outed by someone at Medicare who didn't like homosexuals? Or was upset to hear that the same person had acquired hepatitis in their youth from risk-taking illicit drug use?
4. I have worked in general practice for 20 years. In the early days, we kept clinical notes with special codes to hide sensitive information like sexuality from prying eyes. These kinds of special codes impeded the flow of necessary and proper flow of information between professions. Let us not return to those days, just when electronic records are starting to bridge the gap between different sectors of the health workforce.
5. The amendments do not say what qualifications will be required for reading the notes: is the person to be an administrative person or a doctor? What sanctions will apply if they breach that confidentiality? I could face being struck off and never

work again if I actively or even inadvertently disclosed confidential details of my patients without their permission.

Confidentiality between a patient and his or her doctor is fundamental to good personal healthcare, especially in the field of sexual health, HIV and hepatitis. ASHM asks the Senate committee to consider our concerns in your deliberations; we appreciate that proper accountability is very important, but not at the expense of a sentiment all Australians value highly, expressed in the saying: "if you can't tell your doctor, who can you tell?"

Dr Jonathan Anderson
MB ChB FRACGP MSc MPH DipVen
General Practitioner
Melbourne

President
Australasian Society for HIV Medicine
Sydney

Adjunct Associate Professor,
Discipline of General Practice,
Central Clinical School,
University of Sydney.

Mobile 0417 545 078